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COMMISSION

July 25, 2012

MUR # 6617

2012 JUL 31 PM 2:40

OFFICE OF GENERAL
COUNSEL

Anthony Herman
General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Re: Christie Vilsack, Christie Vilsack for Iowa, the American Federation of State, County and Municipal Employees, and House Majority PAC

Dear Mr. Herman:

Pursuant to 2 USC § 437g(a)(1) and 11 CFR § 111.4, please accept this letter as a Complaint against the American Federation of State, County and Municipal Employees ("AFSCME") and House Majority PAC ("HMPAC") for operating in violation of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Federal Election Commission ("FEC" or "Commission") regulations, and more specifically, for violation of the regulations governing dissemination, distribution, or republication of candidate campaign materials, located at 11 CFR § 109.23.

I. Facts

Christie Vilsack is a candidate for U.S. Representative for Iowa's 4th Congressional District, running for election in 2012 ("Vilsack"). Christie Vilsack filed a Statement of Candidacy on April 19, 2011. Christie Vilsack for Iowa is the authorized principal campaign committee for Christie Vilsack ("the Campaign"), and filed an amended Statement of Organization on January 29, 2012.

The American Federation of State, County and Municipal Employees ("AFSCME") is an organization that makes independent expenditures on behalf of Federal candidates. House Majority PAC ("HMPAC") is an independent expenditure-only committee that also makes independent expenditures on behalf of Federal candidates.

On July 18, 2011, the Campaign released a web advertisement depicting Vilsack visiting with various people in different environments ("Campaign Web Advertisement"). On July 23, 2012, AFSCME and HMPAC both began airing the same advertisement in support of Christie Vilsack ("AFSCME/HMPAC Advertisement"). As of the drafting of this Complaint, both entities are scheduled to run the AFSCME/HMPAC Advertisement for two weeks. The AFSCME and HMPAC versions of the advertisement are exactly the same, except for the disclaimer on the advertisement. The disclaimer on the AFSCME version of the advertisement reads "Paid for by the American Federation of State, County and Municipal Employees (AFSCME.ORG). Not authorized by any candidate or candidate's committee. AFSCME is responsible for the content of this advertising." The disclaimer on the HMPAC version reads "Paid for by the House Majority PAC. TheHouseMajorityPAC.com Not authorized by any candidate or candidate's committee."

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The House Majority PAC is responsible for the content of this advertising." See Attachment 1 for a transcript of the AFSCME/HMPAC Advertisement.

The AFSCME/HMPAC Advertisement includes the exact same footage that was created and produced by the Campaign, and included in the Campaign Web Advertisement. For instance:

- At :08 seconds, the AFSCME/HMPAC Advertisement shows a playground scene, panning to a shot of Vilsack sitting on a park bench with a man and a woman. At 1:02, the Campaign Web Advertisement shows the exact same footage, panning from the same playground scene to the same shot of Vilsack sitting on a park bench with the same man and woman.
- At :22 seconds, the AFSCME/HMPAC Advertisement shows Vilsack speaking to a gentleman in a light blue collared shirt. At :15, the Campaign Web Advertisement shows the same footage of Vilsack speaking to the same gentleman.
- At :27 seconds, the AFSCME/HMPAC Advertisement shows Vilsack walking through a corn field with a man and a woman, as the three walk out of the camera's shot. At :18 seconds, the Campaign Web Advertisement shows the same scene of Vilsack and the other people walking through the corn field and out of the camera's shot.

Relevant Law

Committees that solicit and accept unlimited contributions from individuals, political committees, corporations and labor organizations for the purpose of making independent expenditures are prohibited from making direct contributions to federal political committees. See *Citizens United v. Federal Election Commission*, 130 S. Ct. 876, 901 (2010) (noting that *Buckley v. Valeo*, 424 U.S. 1 (1976) first upheld the FECA's limits on direct contributions to candidates to protect against the government interest in the prevention of corruption and the appearance of corruption"). See also FEC Advisory Opinion 2010-11 (approving an organization's proposal to solicit non-federal funds in order to make independent expenditures, as long as the organization refrained from making "any monetary or in-kind contributions (including coordinated communications) to any other political committee or organization").

The financing of the dissemination, distribution, or republication, in whole or in part, of any broadcast or graphic materials prepared by the candidate, the candidate's authorized committee, or an agent of either shall be considered a contribution for purposes of contribution limitations and reporting responsibilities of the person making the expenditure. 11 CFR § 109.23. There are exceptions to this rule, but none are applicable in the situation at hand.¹ In-kind contributions, like other contributions, are subject to federal contribution limits.

¹ See 11 CFR § 109.23(b), granting exceptions from the definition of contribution for republication by the candidate or candidate's authorized committee who prepared the material, for campaign material incorporated into a communication that advocates the defeat of the candidate that prepared the material, for

Legal Analysis

The cost of creating the AFSCME/HMPAC Advertisement is, by law, classified as an in-kind contribution to the Campaign. Both AFSCME and HMPAC distributed an advertisement that republished materials prepared by Vilsack and the Campaign and included in a campaign web advertisement published online not one week earlier. Because none of the exceptions to the definition of a contribution apply in the matter at hand, the cost of conceptualizing, producing, and broadcasting this advertisement is considered an in-kind contribution from both AFSCME and HMPAC to the Campaign.

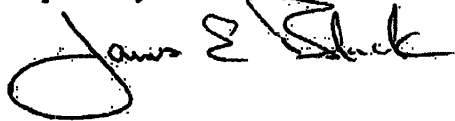
Both AFSCME and HMPAC are prohibited from making direct or in-kind contributions to federal campaign committees. Furthermore, Vilsack and the Campaign are prohibited from receiving funds unless the funds are subject to the limitations, prohibitions and reporting requirements. The cost of the AFSCME/HMPAC Advertisement is an illegal contribution to Vilsack and the Campaign.

IV. Conclusion

Upon information and belief, and based upon the facts relayed herein, the American Federation of State, County and Municipal Employees and House Majority PAC have violated the Federal Election Campaign Act of 1971, as amended, and Federal Election Commission Regulations. Accordingly, we respectfully request that the Commission conduct an immediate investigation into the violations outlined above and impose the maximum penalty under law.

The foregoing is correct and accurate to the best of my knowledge, information and belief.

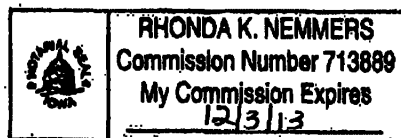
Respectfully submitted,

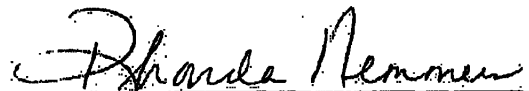


Algonquin, IA 50511

PA:

Sworn to and subscribed before me this 26th day of July, 2012.




Notary Public

My Commission Expires: 12/3/13

replication in a news story, editorial, or commentary, for republication of a "brief quote of materials that demonstrate a candidate's position", or for republication paid for with coordinated party expenditure authority." Clearly none of the exceptions explained herein apply in this case.

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Attachment 1

Transcript of the AFSCME/HMPAC Advertisement

Too often critical funding for our schools gets caught up in red tape, when it should be all about the kids. Christie Vilsack knows that, she was a teacher. And she was relentless, helping lead the effort to make sure we got the funding we needed, working with Republicans and Democrats. Christie knows it's not about partisan politics, that's who Christie Vilsack is: independent minded. We sure could use more of that. AFSCME is responsible for the content of this advertising.

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